

4/4/16

11:50 A.M.

Chapter No. 305  
16/SS26/R356PS  
LR 1B/LR

## ***SENATE BILL NO. 2192***

Originated in Senate



Secretary

SENATE BILL NO. 2192

AN ACT TO PROVIDE THE COMMISSIONER OF INSURANCE WITH THE AUTHORITY TO ENJOIN A PERSON OR ENTITY HOLDING AN INSURANCE LICENSE FROM UNLAWFUL ACTIVITIES; TO AMEND SECTIONS 83-17-65 AND 83-17-71, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO TAKE THE SAME ACTION AGAINST A NONRESIDENT PRODUCER LICENSED IN THIS STATE AS THAT TAKEN BY THE NONRESIDENT PRODUCER'S HOME STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** (1) The Commissioner of Insurance shall have the power to examine and investigate into the affairs of every person, company, corporation or association who holds a license to conduct the business of insurance in this state in order to determine whether such person, company, corporation or association has been or is engaged in any improper or unauthorized activity in violation of any insurance law.

(2) Whenever the commissioner shall have reason to believe, from evidence satisfactory to him, that any such person, company, corporation or association has engaged or is engaging in any improper or unauthorized activity in violation of any insurance law, the commissioner may issue a cease and desist order with or

without notice and a prior hearing against the person, company, corporation or association engaged in the prohibited activities, directing them to cease and desist from further activities. If a cease and desist order is issued without notice and a hearing, the order shall specify that the respondent may request a hearing for reconsideration within twenty (20) days of the date of the order.

(3) Should any person, company, corporation or association fail or refuse to comply with the cease and desist order issued by the commissioner pursuant to subsection (2) of this section, such violation shall be a misdemeanor and, upon conviction, shall be punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) per violation.

**SECTION 2.** Section 83-17-65, Mississippi Code of 1972, is amended as follows:

83-17-65. (1) Unless denied licensure pursuant to Section 83-17-71, a nonresident person shall receive a nonresident producer license if:

(a) The person is currently licensed as a resident and is in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by Section 27-15-87;

(c) The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to his or her home state, or a completed uniform application; and

(d) The person's home state awards nonresident producer licenses to residents of this state on the same basis.

(2) The commissioner may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(3) A nonresident producer who moves from one (1) state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of the change of legal residence. No fee or license application is required.

(4) Notwithstanding any other provision of this article, a person licensed as a surplus lines producer in his or her home state shall receive a nonresident surplus lines producer license in accordance with subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of Sections 83-21-17 through 83-21-31.

(5) Notwithstanding any other provision of this article, a person licensed as a limited line credit insurance or other type of limited lines producer in his or her home state shall receive a nonresident limited lines producer license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the producer's

home state. For the purposes of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines under Section 83-17-63(1)(a) through (f).

(6) Notwithstanding any other provision of this article to the contrary, a person licensed in this state as a nonresident producer whose license is denied, suspended or revoked in his or her home state shall also have his or her nonresident license denied, suspended or revoked in this state without prior notice or hearing. The commissioner shall notify the nonresident producer, by United States regular mail sent to the nonresident producer's last-known address on file at the Insurance Department, that the nonresident producer's license has been denied, suspended or revoked. The nonresident producer may within ten (10) days of the date of the letter make written request to the department for hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within thirty (30) days of the receipt of the written request.

**SECTION 3.** Section 83-17-71, Mississippi Code of 1972, is amended as follows:

83-17-71. (1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation and such

penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund" for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(b) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony;

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(i) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from an individual who is not licensed;

(m) Failing to comply with an administrative or court order imposing a child support obligation; or

(n) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(2) If the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within ten (10) days for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within thirty (30) days.

(3) The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that

an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

(4) In addition to, or in lieu of, any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine not to exceed One Thousand Dollars (\$1,000.00) per violation and such fine shall be deposited into the special fund in the State Treasury designated as the "Insurance Department Fund."

(5) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this article and Title 83, Mississippi Code of 1972, against any person who is under investigation for or charged with a violation of this article or Title 83, Mississippi Code of 1972, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(6) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a producer within one (1) year from the effective date of such revocation or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause



why the revocation of his license shall not be deemed a bar to the issuance of a new license.

(7) Notwithstanding any other provision of this article to the contrary, a person licensed in this state as a nonresident producer whose license is denied, suspended or revoked in his or her home state shall also have his or her nonresident license denied, suspended or revoked in this state without prior notice or hearing.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2016.

PASSED BY THE SENATE  
February 24, 2016

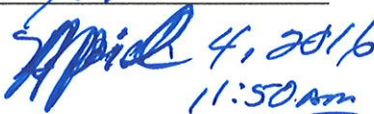
  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 23, 2016

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR

  
April 4, 2016  
11:50 AM